

**TOWN OF NEWMARKET, NEW HAMPSHIRE
TOWN COUNCIL REGULAR MEETING**

April 15, 2015 7:00 PM

PRESENT: Council Chairman Phil Nazzaro, Council Vice Chairman Gary Levy, Councilor Dale Pike, Councilor Amy Thompson, Councilor Toni Weinstein, Councilor Amy Burns, Councilor Larry Pickering

ALSO PRESENT: Police Chief Kevin Cyr

EXCUSED: None

AGENDA

Chairman Nazzaro welcomed everyone to the April 15, 2015 Town Council Meeting and called the meeting to order at 7:03 pm, followed by the Pledge of Allegiance.

Vice Chair Levy made a motion to seal the minutes of Non-Public Session *RSA 91-A:3 II Personnel/Legal*, and Councilor Weinstein seconded the motion.

Police Chief Kevin Cyr, as acting Town Administrator, called the roll and the motion passed unanimously, 7-0.

Chairman Nazzaro explained that Police Chief Cyr was filling in for Town Administrator Fournier as he was on vacation.

PUBLIC FORUM

Chairman Nazzaro opened the Public Forum at 7:04 pm and asked whether anyone from the public wished to speak.

Jonathan Kiper of 169 Main Street addressed the Council. He stated that he had emailed all Councilors regarding a church steeple in need of repair. He said that the members of the church were trying to raise \$18,000 to paint and fix the steeple, and since the Town owned the clock mechanism he felt that they could help with the repairs. He added that the church was small with not many members, and had no insurance or funds available. He also felt that it would be good for the Town to have it cleaned up so it looked nice to visitors. He next addressed the issue of heroin on the Seacoast, saying that Newmarket was not outside of the problem. He said that he had personally seen people on heroin at the Stone Church and in town, and he wanted to make sure everyone was aware of the problem. He expressed his hope that the Town, as a community, could come up with some kind of plan to address the issue. As another aspect of the problem, he mentioned the Hepatitis-C outbreak resulting from the use of shared

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needles among people who did not have health insurance. He felt that this could potentially become a problem, especially for people who worked in restaurants with knives.

As there were no other public comments, Chairman Nazzaro closed the Public Forum at 7:06 pm.

PUBLIC HEARING - Ordinance #2014/15-02 Adopting the Codification of the Ordinance Book

Chairman Nazzaro opened the Public Hearing regarding *Ordinance #2014/15-02 Adopting the Codification of the Ordinance Book*.

As no one from the public came forward, Chairman Nazzaro closed the Public Hearing at 7:07 pm.

TOWN COUNCIL TO CONSIDER ACCEPTANCE OF MINUTES

Acceptance of the Minutes of the Regular Meeting of April 1, 2015,

Vice Chair Levy made a motion to approve the minutes of the regular meeting of April 1, 2015, and Councilor Weinstein seconded.

Changes: Councilor Pike requested a change to the bottom of page 5 to his statement under Committee Reports in regard to the Planning Board. He said that it should read: "the Planning Board had received a withdrawal of the application from Mr. Cheney regarding the subdivision at Liberty Point."

Chief Cyr polled the Council and the minutes of the regular meeting of April 1, 2015 were approved as amended by a vote of 7-0.

Acceptance of the Minutes of the Non-Public Meeting of April 1, 2015

Councilor Thompson made a motion to approve the Non-Public minutes of April 1, 2015, and Vice Chair Levy seconded.

Councilor Burns requested a change to the Non-Public minutes and Chairman Nazzaro stated that they would need to go into Non-Public after the meeting to address these changes.

REPORT OF THE TOWN ADMINSTRATOR

Chairman Nazzaro stated that the report from the Town Administrator and other Department Heads was on record in the packet. Police Chief Cyr said that he had not had a chance to look over the information.

Chairman Nazzaro made a quick announcement that tomorrow at 10:30 am, at the Sunrise Sunset Activities Center, a dedication ceremony would be held for *Martha McNeil* for all those who could attend. He said that a \$2.00 donation was requested for the luncheon.

Questions/Discussion:

Councilor Weinstein pointed out that the report of the Town Administrator had said that an update on COAST Bus Route 7 would be provided at the meeting, and asked if a report had been received. Police Chief Cyr replied that Town Administrator Fournier had not left any updates with him. Councilor Weinstein then brought up the vibration issues with the Sewell Well, and said that Water & Wastewater Director Sean Greig had stated in his report that parts had been ordered. She said she assumed this meant the well would be repaired rather than being replaced, as had been previously discussed. Councilor Pike responded saying that many of the departmental reports included with the Town Administrator Report were not updated regularly and needed to be periodically edited. He said that they often referred to “future” events which were already in the past. Chief Cyr stated that the department heads had actually submitted these reports 10 or 14 days ago, and that any changes made after that were not included. Chairman Nazzaro clarified that Councilor Pike was referring to some of the reports which seemed to be the same month after month. Councilor Pike felt it did serve a purpose as a reminder, but that the dates needed to be changed.

Councilor Weinstein stated that a planning representative had mentioned a Public Hearing regarding the Bike Path Project on May 20th, and said she wanted to publically comment on the issue. She said that when the project was approved five (5) years ago, no funds were needed, but that now they were requesting \$40,000 to fund the project. She also announced that the Recreation Department would sell out of summer camp registrations by May 1st, and she wanted to alert parents. Councilor Thompson said that she had asked the Town Administrator about the ownership of Ashswamp Road where it meets Route 108. She said that Town Administrator Fournier believed the Town owned it, and that she had then requested to know “when” that had happened in case any disputes arose with the State. She said that he had stated that he would do some research and get the date of the actual transfer, and that she was looking for that follow-up. Chairman Nazzaro stated that he also had specific questions for the Town Administrator, and asked Chief Cyr if Councilors could email their questions to him, which he could aggregate into a document for the Town Administrator. Chief Cyr replied that this was fine, and that if there were any pressing issues he could directly contact the department heads. Chairman Nazzaro asked if any member of the Council had any pressing issues to bring up. Chairman Thompson suggested Town Administrator Fournier could alternatively get the questions of the Councilors from the minutes of the meeting.

Chairman Nazzaro then announced an item not mentioned in the report. He said that on Saturday April 18th, from 9 am to 12 pm, the Planning Department would be holding a Community Forum at the Newmarket Town Hall in conjunction with Strafford Regional Planning. He said that this would be an opportunity for the Town to take part in the Visioning Session as part of the Master Plan process. He added that those interested should call Kyle Pimental at 603-994-3500, and he encouraged everyone to attend.

Vice Chair Levy raised the issue of salt expenditures in the Public Works Department, saying that last year they had spent \$106,000 on salt and \$109,000 this year. He said that he would like to know the reason the amount for this year was almost commensurate with last year, despite having had much more snow this winter. Chairman Nazzaro noted that they did not always salt because of snow. Vice

Chair Levy addressed Police Chief Cyr regarding the issue of drugs and opiates, asking if he had seen a large increase over the last year. Chief Cyr replied that he had seen a large increase, and that it was a nationwide epidemic from which Newmarket was not immune. Vice Chair Levy asked Chief Cyr how the department was now dealing with the problem. Chief Cyr replied that they responded with arrests and counseling, but that arrests did little to stop the addiction. He stated that when the Department targeted an arrest, they wanted to target the suppliers. He added that the sheer volume was unbelievable, with multiple repeat offenders. He said that he had been to numerous heroin overdoses in the last six (6) months, and that *Narcan* was used to bring them back on several occasions. He added that they had also seized needles, etc. but that there was a 6-8 month backlog for laboratory analysis. He further added that the legislature had just cut the budget and they were contemplating other laws that would further complicate police procedures. Though he could not provide an answer to the problem, he felt that it was not the job of law enforcement to treat people as they were not properly trained. He pointed out that in addition to the addiction problem, more crimes were being committed and that bank robberies were up 100% in New Hampshire. Vice Chair Levy asked if the Police Department provided any educational services or lectures on the subject. Chief Cyr replied that a School Resource Officer had been in place for several years and was constantly in the classroom addressing all issues on drug use. He said that the DARE program which existed in the past did not work, as it had not addressed student peer pressure. Vice Chair Levy asked his thoughts on the legalization of marijuana, and Chief Cyr felt that adding another intoxicant to the mix was not a good idea.

Chairman Nazzaro stated that one departmental report had mentioned a mandate from the Finance Office requesting a percentage of the total budget be taken out and applied to the overage in Public Works for snow. He said that as he understood it, the Council needed to vote on any changes to the line-items in the budget. Councilor Thompson said that she believed that any transfer within a department could be made but that transferring funds from one department to another required a Council vote. Vice Chair Levy felt the Council should first be given a synopsis before a vote. Chief Cyr stated that he was not aware of any transfers being made at this point. He said that Town Administrator Fournier had informed him that any transfer requests would first be discussed individually with the departments. Vice Chair Levy asked if that was the rule, and Chairman Nazzaro felt it was based on a Charter issue. Councilor Thompson felt that the point needed to be clarified.

COMMITTEE REPORTS

Councilor Burns gave a recap of the Conservation Commission meeting of April 9th. She reported that a book would be coming out entitled "Big Trees in New Hampshire" with information on hikes. She said that the Nature Conservancy would be doing an invasive species removal of garlic mustard plant on May 22nd, and that the Lamprey River Advisory Committee (LRAC) had received an alteration of terrain permit for the Wastewater Treatment Facility. She reported that the Bald Hill development consisted of ten (10) lots with 21 acres of open space which they wanted to preserve. She said that an invasive species cleanup was scheduled at Wiggin Farm for April 19th, and that turtle signs would be going back up mid-April to early May. She also said that they were looking into doing water testing in the rivers and were asking for volunteers for June through August. She mentioned the Conservation Commission had rain barrels and composters for sale. She stated that there had also been a presentation on the Lamprey River feasibility study, and they had reviewed the recreational value of the corridor which would

become part of the National Park Service. Lastly, she noted that Councilor Toni Weinstein had provided public comment regarding Newmarket Solutions holding their roadside championship on May 16th from 9 am to 2 pm.

Councilor Pike reported that the Planning Board had met and that they had also discussed the Bald Hill development. He said that a representative of the Southeast Land Trust, who would be taking ownership of the space, had provided information but that no action had been taken at the meeting. He stated that conditional approval had been granted for development by Shearwater Investments for the Forbes Road Industrial area, and that a long discussion had followed regarding the build out (what it would look like) and what would be considered sufficient progress by the board.

Vice Chair Levy stated that the School Joint Advisory Committee report was due the next day, and that Mr. Randy Bell intended to drop off a draft of the report. He said that committee members would be emailing questions to Mr. Bell and that he would be giving a final report next week. He said that he had gotten a sense from the last School Board meeting that Mr. Bell would go over the report with them and answer their questions. He added that a School Board meeting was scheduled for next week.

Vice Chair Levy reported that the Economic Development Committee would be meeting the following week and discussing zoning options for zones B2 and B3.

Chairman Nazzaro announced that the Veterans Memorial Trust Committee was hosting a golf tournament on May 16th. He said that anyone interested in participating should go to the website or contact himself or Mr. Dave Wade for an entry form. He added that people could also sponsor a hole or provide donations, as they were attempting to build a memorial in Newmarket for Veterans of World War II and beyond.

OLD BUSINESS

ORDINANCES AND RESOLUTIONS IN THE 2ND READING

Ordinance #2014/15-02 Adopting the Codification of the Ordinance Book

Chairman Nazzaro said that he would ask for a motion to be made, but first it had been his understanding that a representative would be speaking to the Council regarding this issue. He asked the Councilors if they preferred having the Town Administrator present to answer questions before a vote. He felt it would be best to aggregate the questions into a document and to have the Town Administrator respond, and asked Chief Cyr if the Council could send another list of questions to him. Chief agreed and Chairman Nazzaro asked the Councilors to email their questions to him. He said that he would follow-up with Town Administrator Fournier so that he would be able to answer the questions at the next meeting. Chairman Nazzaro stated that they needed to move *Ordinance #2014-15-49* to a 3rd reading, and Vice Chair Levy suggested tabling it. Councilor Weinstein said that they did not need to table it, but just not act on it at present.

Resolution #2014/15-49 Town Council Rules for Proceedings

Councilor Pike asked if there had been any changes to the rules from the prior year, and Chairman Nazzaro replied that there had not been any changes but that he had some thoughts on the rules.

Councilor Weinstein made a motion to approve *Resolution #2014/15-49 Town Council Rules for Proceedings*, and Councilor Pike seconded.

Discussion: Councilor Weinstein stated that on page 58 of the packet under *Ordinances 6a-iv*, she questioned the wording “extensively amended” in regard to the first reading of an ordinance, and that it might be held for a third reading as a result. She specifically questioned the meaning of the phrase and who would make the determination. Vice Chair Levy asked what the difference was between a third reading and tabling. Chairman Nazzaro replied that an item could sit on the table *ad infinitum*, but that with a third reading they needed to either act or table it. Councilor Weinstein also pointed out that it should state “at the second reading”, as no action was taken at a first reading. Chairman Nazzaro agreed that *Section 6a-iv* needed to be corrected, and added that he thought it would be up to the Council to define “extensive”. Vice Chair Levy mentioned that something had remained on the table all of last year, and Chairman Nazzaro said that he needed to ask Town Administrator Fournier why *Harvest Way* had been taken off the table. Councilor Weinstein next questioned page 58 *Section 6b-1*, regarding the statement that some resolutions might require a Public Hearing and asked who would make that determination. Chairman Nazzaro stated that Ordinances require a Public Hearing but that Resolutions do not, as they are more administrative actions. Vice Chair Levy felt that a lot of the rules were not really applied, and that he did not want to spend the whole night going over it. Councilor Pike said that for a lot of these things the Council depended on administration for explanation. Chairman Nazzaro felt that these were their rules and that if they wanted to make changes then they should, and Councilor Thompson felt that they should have it clarified. Chairman Nazzaro added that this was their opportunity to make sure that the rules they operated under were the most effective, and he asked the Council if they felt a Public Hearing on resolutions was needed. Councilor Weinstein felt they should add “as determined by the Council” or some clarification as to who would make the determination, and asked if a motion was needed to make the correction. Vice Chair Levy felt they should not start changing things until they knew how they were applied. Chairman Nazzaro personally felt that they could make edits to the document as covered their rules.

Councilor Weinstein next questioned *Section 16* on page 61, under the *Budget Committee*, regarding the appointment of an alternate, which they had not done for this year. Councilor Thompson pointed out that the wording specified that a member “may” be represented by an alternate. Vice Chair Levy explained that “may” implied a question mark, but “shall” meant that it must be done. Chairman Nazzaro felt they would need to look up the root RSA language, but Councilor Thompson again pointed out that the wording specified “may” for the alternate. Vice Chair Levy asked for a clarification under *Section 1* on page 56 regarding the definition of Workshop Meetings. He said that it was his understanding that the Council had changed this specification, as the Town Administrator had asked that they hold two (2) business meetings per month rather than a workshop and a business meeting. He felt the language was not really consistent with what they had been doing. Chairman Nazzaro pointed out that in the first paragraph of *Section 1* it clarified that business meetings “shall” be held on the first and third Wednesday of each month, and that workshop meetings were elective and held before the

business meeting or on alternate dates. Vice Chair Levy said that Town Administrator Fournier had requested that the Council conduct two business meetings per month as he felt the Council was not taking action in a timely manner, and felt that a workshop could be integrated into a regular meeting. Chairman Nazzaro pointed out that they were supposed to be following Robert's Rules, and that the casual conversation now going on would not be happening in that case. He said that for a business meeting, action should be taken and whatever discussion was needed for the record. Councilor Pike said that he preferred the way they were doing it now rather than making it more formal. Chairman Nazzaro asked if they should then eliminate the language regarding Robert's Rules or leave it as a general guideline. Councilor Pike felt he did not see the need for that as long as everyone on the Council was working well together.

Vice Chair Levy questioned *Section 7 – Meeting Protocol* on page 59, regarding the statement that no Councilor could address an agenda item twice before each Councilor had been recognized. He said that what they had been doing had worked well, and that the response to one question did not always give clarity. He said he preferred to continue allowing each Councilor to address their questions all at once, rather than limiting it to one question. Chairman Nazzaro interpreted the passage to mean that if someone were speaking and another Councilor had a question, then he would let the other Councilor go first. Vice Chair Levy raised another question under *Section 12i – Permission to Address the Council*, specifically the wording that “speakers shall be residents of the Town of Newmarket, property owners...” etc. as the Council had not practiced that and generally did not have any issues with non-residents speaking. Chairman Nazzaro pointed out that *Section 13* allowed the vote of 2/3 of the Council to override any of the rules. Councilor Thompson asked if the Council wanted to add language to both *Section 7* and *Section 12i* specifying “at the discretion of the Chairman or the Town Council” in both sections. Councilor Pike felt that it was not necessary as it had not been an issue. Councilor Thompson pointed out that she had at times heard rumblings regarding a person not living in the Town and that it did happen. Vice Chair Levy said that it had happened, but that the Council had always been cordial and respectful in general. Councilor Pike said that in his experience all people had been included.

Chairman Nazzaro questioned the wording in *Section 1* regarding public portions of the meetings ending by 10 pm unless the Chairman or a majority of the Council determine otherwise. He felt that this determination should be made by the majority of the Council, and wanted “Chairman” deleted. Councilors Weinstein and Pike were in agreement with this edit. Chairman Nazzaro next questioned a paragraph under Workshop Meetings in *Section 1*, which referenced *Section 6* regarding agendas, and said that the information contained in *Section 6* did not apply. Councilor Thompson said that it should reference *Section 5* instead. Chairman Nazzaro then questioned the wording on page 59 under *Section 8*, which read: “Per Section 3.8.A of the Town Charter any ordinance may be introduced by any member at any regular or special meeting of the Council.” He said that it should probably say “any ordinance or resolution”. He next referred to *Section 16* on page 61, questioning what was meant by an “advisory committee”. Vice Chair Levy said that the JAC and the EDC were advisory committees, where no action was taken but that instead made a recommendation to be brought back to the Council for action. Chairman Nazzaro specified that he was questioning whether, when speaking of an advisory committee, they were talking about sub-sections of the Council. He also felt the statement “the Chairman shall have the power to appoint such an advisory committee” was incorrect as he could not alone create a new

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committee, and felt that clarification was needed. Vice Chair Levy agreed that to set up a committee, the Council should hold a vote.

Chairman Nazzaro asked that given the questions for the Town Administrator, did the Council also wish to push this resolution to a third reading. The Council was in agreement to hold *Resolution #2014/15-49 Town Council Rules for Proceedings* to a third reading. Chairman Nazzaro stated that there was a motion on the table which would need to be withdrawn. Councilor Weinstein withdrew her motion to approve *Resolution #2014/15-49* and Councilor Pike seconded.

ORDINANCES AND RESOLUTIONS IN THE 3RD READING - None

ITEMS LAID ON THE TABLE - None

NEW BUSINESS/CORRESPONDENCE

TOWN COUNCIL TO CONSIDER NOMINATIONS, APPOINTMENTS AND ELECTIONS

Zoning Board of Adjustment: Candidate Jonathan Kiper Term Expires March 2017.

Councilor Burns made a motion to nominate *Jonathan Kiper Term Expires March 2017* to the *Zoning Board of Adjustment*, and Councilor Weinstein seconded.

Vice Chair Levy asked a question as to whether the Zoning Board of Adjustment was now complete, and Chairman Nazzaro replied that they were still in need of one (1) fulltime person and two (2) alternates.

Chief Cyr polled the Council and the motion passed unanimously, 7-0.

ORDINANCES AND RESOLUTIONS IN THE 1ST READING

Resolution #2014/15-50 Authorizing the Town Administrator to Enter into a Payment In Lieu of Taxes Agreement with Great Bay Kids Company

Chairman Nazzaro read *Resolution #2014/15-50 Authorizing the Town Administrator to Enter into a Payment In Lieu of Taxes Agreement with Great Bay Kids Company* in full.

Ordinance #2014/2015-03 Prohibiting the Feeding of Birds and Wild Animals on Public Property

Chairman Nazzaro read *Ordinance #2014/2015-03 Prohibiting the Feeding of Birds and Wild Animals on Public Property* in full. The Ordinance had been sponsored by Councilor Pike.

Ordinance #2014/2015-04 Regulating Raffles

Chairman Nazzaro read *Ordinance #2014/15-04 Regulating Raffles* in full.

Councilor Weinstein stated that the wording had been lifted directly from RSA, and wondered if there had been a raffle problem in the Town which had led to this ordinance being drafted. Chief Cyr replied that he was not aware of any.

Resolution #2014/2015-51 Relating to Replacement Doors at Recreation Center

Chairman Nazzaro read *Resolution #2014/2015-51 Relating to Replacement Doors at Recreation Center* in full.

Chairman Nazzaro stated that he had a question for the Town Administrator as to which fund the money would be coming out of to pay for the doors.

CORRESPONDENCE TO TOWN COUNCILORS - None

CLOSING COMMENTS BY TOWN COUNCILORS

Vice Chair Levy said that he would be unable to attend the ceremony for Martha McNeil and wanted to let her know his heart would be with her. He asked if a plaque was to be presented. Chairman Nazzaro replied that the last event had been the retirement ceremony and that this would be the official ceremony of dedication.

Councilor Weinstein offered an apology for the overlap of events as Newmarket Solutions was sponsoring its Second Annual Roadside Litter Cleanup on May 16th, which was the same date as the Veterans Memorial Trust Committee golf tournament. She said that last year they had collected 30 trash bags of litter in one and one-half hours and hoped to double the number of volunteers this year.

Acceptance of the Minutes of the Non-Public Session of April 1, 2015

Councilor Thompson made a motion to approve the minutes of the Non-Public session of April 1, 2015 as amended, and Councilor Burns seconded. The motion was approved unanimously by a vote of 7-0.

ADJOURNMENT

Vice Chair Levy made a motion to adjourn the meeting, which was seconded by Councilor Pike. The meeting was adjourned at 8:35 pm.

Respectfully submitted,

Patricia Denmark, Recording Secretary.